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REMARKS

For the sake of clarity, claim 16 has been amended to call for gypsum in the gypsum matrix to be provided from an aqueous slurry during production of the gypsum board.

Support for the foregoing amendment is found in the specification, particularly at page 7, lines 24-27, and page 8, lines 1-2. Consequently, no new matter has been added.

Claims 1-15, 23-25, 28, 31, and 32 stand withdrawn from consideration.

Appreciation is expressed for the Examiner's withdrawal of: (i) the rejection of claims 16-20, 26-27, and 29-30 under 35 USC 103(a) as being unpatentable over US Patent 4,645,548 to Take et al. in view of US Patent 4,195,110 to Dierks et al. and US Patent 4,741,773 to Kuroda; and (ii) the provisional rejection of claims 16-20, 26-27, and 29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of copending Application Ser. No. 10/913,768 and copending Application Ser. No. 10/796,951.

Claim 16 was rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In particular, the Examiner has pointed to the language "gypsum in said having been provided from an aqueous slurry during production of said gypsum board." Claim 16 has been herewith amended to insert the words "gypsum matrix" as the object of the incomplete prepositional phrase "in said." This second instance of the term "gypsum matrix" clearly finds antecedent basis in the first instance of the same term at the beginning of feature (a) of claim 16. It is respectfully submitted that any lack of clarity of

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claim 16 has been obviated, so that amended claim 16 now complies with the clarity and definiteness requirements of 35 USC 112, second paragraph.

In view of the amendment of claim 16 and the foregoing remarks, it is submitted that the basis underlying the rejection of said claim as being indefinite has been obviated, and that amended claim 16 satisfies the statutory requirements of 35 U.S.C. §112, second paragraph, by particularly pointing out and distinctly claiming the subject matter which applicant regards as the invention.

Accordingly, reconsideration of the rejection of claim 16 under 35 USC 112, second paragraph, as being indefinite is respectfully requested.

Claims 16, 17, 18, 20, and 26 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application Ser. No. 10/832,500.

In order to expedite prosecution of this application, enclosed herewith is a Terminal Disclaimer in the form required by 37 CFR 1.321 (b), disclaiming the terminal part of any patent on the above-identified application which would extend beyond the expiration date of any patent that would issue from copending US Application Serial No. 10/832,500. The Terminal Disclaimer includes a statement by the attorney of record that the evidentiary documents have been reviewed and certifying that, to the best of his knowledge and belief, title is in the Petitioner seeking to take action. As such, the Terminal Disclaimer is submitted to be in compliance with 37 CFR 3.73 (b), and is in the proper form required by 37 CFR 1.321. In view of the same, it is submitted that claims 16, 17, 18, 20, and 26 should not be subject to rejection based on provisional obviousness-type double patenting over claims 1-5 of co-pending US Application Serial No. 10/832,500.

Accordingly, ~~reconsideration of the provisional obviousness-type double-patenting~~ rejection of claims 16, 17, 18, 20, and 26 is respectfully requested.

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The Examiner has objected to claims 19, 27, 29, and 30 as being dependent on a rejected base claim, but has indicated that said claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

More specifically, claims 19, 27, 29, and 30 all depend from base claim 16. Claims 29 and 30 depend directly from claim 16, while claims 19 and 27 depend through intervening claims 18 and 26, respectively. As set forth above, applicant maintains that the rejection of base claim 16 under 35 USC 112, second paragraph, has been obviated by the present amendment and that intervening claims 18 and 26 presently stand rejected only under a provisional double-patenting rejection, which has been obviated by the Terminal Disclaimer submitted herewith.

In view of the amendment of claim 16, the Terminal Disclaimer submitted herewith, and the foregoing remarks, applicant submits that the basis for the Examiner's objection to claims 19, 27, 29, and 30 has been mooted.

Accordingly, reconsideration of the objection to claims 19, 27, 29, and 30 as being dependent from a rejected base claim is respectfully requested.

Applicant respectfully observes that claims 23-25 and 28 stand withdrawn in view of applicant's election of the species of claims 26 and 27, made in the response under 37 CFR 1.111 entered July 7, 2006. In that response to the restriction and election requirements set forth in the Office Action dated June 16, 2006, applicant elected the invention designated as Group II (claims 16-30) and, within that Group II, further elected the species of claims 26 and 27 for prosecution on the merits.

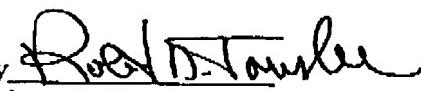
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It is respectfully submitted that present independent claim 16 is generic to claims 23-25 and 28, which depend directly or indirectly therefrom. Claims 23-25 all depend directly from claim 16. Claims 23-24 recite preferred hydrophobic and hydrophilic moieties, respectively, while claim 25 calls for a silane-based sizing composition that comprises a plurality of silane molecules having single or cross linked polydimethylsiloxane chains. Claim 28 depends from claim 16 through intervening claim 26, and recites a preferred form of cross linking.

Inasmuch as amended claims 16 and 26 are submitted to be patentable over the art of record, claims 23-25 and 28 are also submitted to be patentable for at least the same reasons. Under the provisions of MPEP 821.04, applicant thus respectfully requests rejoinder and examination of claims 23-25 and 28 on the merits, and their allowance.

In view of the amendment of claim 16, the terminal disclaimer submitted herewith, and the foregoing remarks, it is submitted that the application, as now presented, is in condition for allowance. Accordingly, reconsideration of the rejection of claims 16-18, 20, and 26 and the objection to claims 19, 27, 29, and 30; rejoinder and examination of presently withdrawn claims 23-25 and 28; and allowance of the application, as delineated by amended claims 16-20, 26-27, and 29, together with presently withdrawn claims 23-25 and 28, are respectfully requested.

Respectfully submitted,  
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